

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

TESTAMENTARY PETITION NO.788 OF 1998

Shri Bhandari Pavanraj Jain.

...Petitioner.

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Mr.Dinyar D. Madon, Sr. Advocate with Ms. K.R. Devierwala i/b. Mulla & Mulla
for the Petitioner.

None for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

July 6, 2009.

P.C.

Amendment has been sought to the probate by adding a property at Pedder Road, valued at Rs. 4.47 crores. The Schedule to the original Petition estimated the value of the assets of the deceased at Rs. 50.79 lakhs. Mr.Justice J.A. Patil has taken a view in **Bipin Dalpatbhai Shah vs. Vasantben Rasilal Zaveri**, 2003 (Supp 2) Bom.C.R. 786 that where there is an amendment to the proposed schedule of assets, adding substantial value, a fresh citation notice will have be issued :

“It must however, be made clear that the amendment in the schedule of assets, being for addition of more assets of substantial value, fresh citation notices to that extent will have to be issued. The concerned

legal heirs or third parties might not have raised any objection for grant of Letters of Administration in favour of these petitioners with respect to the Schedules or assets as were then annexed to the petitions. But who knows that any might rise objection for making additions to those Schedules. Therefore, to avoid any prejudice been caused to anybody and in order to give one opportunity to the possible objectors, issuance of fresh citation notices indicating amendment in the Schedules annexed to the Letters of Administration would be necessary.”

In view of the aforesaid decision, it would be in the interests of justice to issue a fresh citation to the legal heirs, of the proposed amendment. This may be done expeditiously.

The Testamentary Registrar has stated before the Court that after the draft is settled, he will take steps to issue a citation notice immediately.

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